

In addition to the above-identified letters, Applicants submit a record of the invention of the present invention dated September 23, 1994 and sent to their attorney of record showing invention prior to SoundTraxx. (See item m of Appendix A.)

Further, Applicants submit that they continued to diligently work on their invention as evidenced by the letter to their attorney of record dated October 6, 1994 (discussed supra). (See item e of Appendix A.) In addition to the letter, another record of invention dated August 4, 1995 was sent to their attorney of record detailing further development on the DCC sound system. (See item n of Appendix A.)

Based on the foregoing, Applicants submit that the present invention was conceived on or before September, 1994 and that Applicants acted with due diligence to reduce their invention to practice with conception occurring prior to the effective date of the reference and coupled with due diligence from prior to the effective date to a subsequent reduction to practice and/or to the filing of the application. Accordingly, the rejection of the claims based on the SoundTraxx reference should be withdrawn. Notice to that effect is requested.

#### DECLARATION

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

First Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Michael Novosel

Second Inventor's signature Kelly Boles Date 3-28-02  
Kelly Boles

Third Inventor's signature \_\_\_\_\_ Date \_\_\_\_\_  
Vincent S. Fleszewski, III

#### APPENDIX A

- a - Letter from Mike Novosel to Kelly Boles, Nov. 6, 1994
- b - Letter from Mike Novosel to Kelly Boles, circa Nov. 12, 1994
- c - Advertisement, page 161 of Model Railroader, February 1995
- d - Review, Model Railroader, October 1995
- e - Letter from Mike Novosel to Attorney of Record, Oct. 6, 1994
- f - Letter from Mike Novosel to Kelly Boles, Sept. 5, 1994